

Office of the Assistant Secretary, HUD

§ 983.251

HUD or the HA, or to assert any claim against HUD or the HA, for damages, injunction or other relief, for alleged failure to enforce the HQS.

[60 FR 34717, July 3, 1995, as amended at 63 FR 23871, Apr. 30, 1998]

§ 983.205 Overcrowded and underoccupied units.

(a) 24 CFR 982.403, *Terminating HAP contract: When unit is too big or too small*, does not apply.

(b) If the HA determines that a contract unit is not decent, safe, and sanitary because of an increase in family size that causes the unit to be overcrowded or that a contract unit is larger than appropriate for the size of the family in occupancy under the HA's subsidy standards, housing assistance payments with respect to the unit may not be terminated for this reason. The owner, however, must offer the family a suitable alternative unit if one is available and the family shall be required to move. If the owner does not have available a suitable unit within the family's ability to pay the rent, the HA (if it has sufficient funding) must offer Section 8 assistance to the family or otherwise assist the family in locating other standard housing in the HA's jurisdiction within the family's ability to pay, and require the family to move to such a unit as soon as possible. The family must not be forced to move, nor shall housing assistance payments under the HAP contract be terminated for the reasons specified in this paragraph, unless the family rejects, without good reason, the offer of a unit that the HA judges to be acceptable.

[60 FR 34717, July 3, 1995. Redesignated and amended at 63 FR 23871, Apr. 30, 1998]

§ 983.206 Assisted tenancy and termination of tenancy.

(a) Section 982.309 of this chapter, *Term of assisted tenancy*, and § 982.310 of this chapter, *Owner termination of tenancy*, do not apply.

(b) *Term of lease*. The term of a lease, including a new lease or a lease amendment, executed by the owner and the family must be for at least one year, or the remaining term of the HAP contract if the remaining term of the HAP contract is less than one year.

(c) *Move from unit*. The family must notify the HA and the owner before the family moves out of the unit.

(d) *Termination of tenancy*. (1) Subpart A of part 247 of this title, *Eviction from Certain Subsidized and HUD-Owned Projects*, applies, except § 247.4(d) of this title.

(2) The lease may contain a provision permitting the family to terminate the lease on not more than 60 days advance written notice to the owner. In the case of a lease term for more than one year, the lease must contain a provision permitting the family to terminate the lease on such notice after the first year of the term.

(3) The owner may offer the family a new lease for execution by the family for a term beginning at any time after the first year of the term of the lease. The owner must give the family written notice of the offer at least 60 days before the proposed commencement date of the new lease term. The offer may specify a reasonable time for acceptance by the family. Failure by the family to accept the offer of a new lease in accordance with this paragraph shall be "other good cause" for termination of tenancy (under § 247.3(a)(3) of this title).

(Approved by the Office of Management and Budget under control number 2577-0169)

[60 FR 34717, July 3, 1995, as amended at 60 FR 45661, Sept. 1, 1995. Redesignated at 63 FR 23871, Apr. 30, 1998]

§ 983.207 Informal review or hearing.

24 CFR 982.554 (Informal review for applicants) and 24 CFR 982.555 (Informal hearing for participants) are applicable.

[63 FR 23871, Apr. 30, 1998]

Subpart F—Rent and Housing Assistance Payment

SOURCE: 63 FR 23871, Apr. 30, 1998, unless otherwise noted.

§ 983.251 Applicability.

(a) This subpart describes how to determine the amount of the rent to owner and the housing assistance payment in the PBC program.

(b) In subpart K of 24 CFR part 982 (rent and housing assistance payment

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for tenant-based program), the following are the only sections that apply to the PBC program under this Part: § 982.504 (for determination of the FMR/exception rent limit); § 982.516 (regular and interim examinations of family income and composition); and § 982.517 (utility allowance schedule).

§ 983.252 Limits on initial rent to owner.

(a) *Reasonable rent.* The initial rent to owner for a unit may not exceed the reasonable rent as determined by the HA in accordance with § 983.256.

(b) *FMR/exception rent limit.* The initial gross rent for a unit (rent to owner plus utility allowance) may not exceed the FMR/exception rent limit on the date the Agreement is executed. The FMR/exception rent limit is determined by the HA in accordance with 24 CFR 982.504.

§ 983.253 Initial rent: Who approves.

(a) *For units that are not HUD-insured or HA-owned.* The HA approves the initial rent to owners for PBC units that are not financed with a HUD-insured multifamily mortgage, and are not owned by the HA.

(b) *For units that are insured or HA-owned.* For HA-owned PBC units or PBC units financed with a HUD insured multifamily mortgage, the initial rents must be approved by HUD.

§ 983.254 Annual adjustment of rent to owner.

(a) *Owner request for adjustment and compliance with contract.* At each annual anniversary date of the HAP contract, the HA must adjust the rent to owner in accordance with the following requirements:

(1) The owner must request a rent increase (including a comparability study to determine the amount of such increase) by written notice to the HA at least 120 days before the HAP contract anniversary. The request must be submitted in the form and manner required by the HA.

(2) The HA may not increase the rent at the annual anniversary unless:

(i) The owner requested the increase by the 120 day deadline; and

(ii) During the year before the contract anniversary, the owner complied

with all requirements of the HAP contract, including compliance with the HQS for all contract units.

(b) *Amount of annual adjustment.* (1) The adjusted rent to owner equals the lesser of:

(i) The pre-adjustment rent to owner multiplied by the applicable Section 8 annual adjustment factor published by HUD in the FEDERAL REGISTER;

(ii) The reasonable rent as determined by the HA in accordance with § 983.256; or

(iii) The rent requested by owner.

(2) For a HAP contract under an Agreement executed on or after June 1, 1998, the applicable factor is the published annual adjustment factor in effect 60 days before the HAP contract anniversary. For a HAP contract under an Agreement executed before June 1, 1998, the applicable factor is the published annual adjustment factor in effect on the contract anniversary date.

(3) In making the annual adjustment, the pre-adjustment rent to owner does not include any previously approved special adjustments.

(4) The rent to owner may be adjusted up or down in accordance with this section.

(c) *Rent adjustments for HA-owned units.* For HA-owned PBC units, the HA must request HUD approval of the annual adjustment. The HA may not increase the rent at the annual anniversary until and unless HUD has reviewed the HA comparability study, and has approved the adjustment.

(d) *Initial rent.* Except as necessary to correct errors in establishing the initial rent in accordance with HUD requirements, the adjusted rent to owner must not be less than the initial rent.

(Information collection requirements in this section have been approved by the Office of Management and Budget under control number 2577-0169.)

§ 983.255 Special adjustment of rent to owner.

(a) *HUD discretion.* (1) At HUD's sole discretion, HUD may approve a special adjustment of the rent to owner. An HA may only make a special adjustment of the rent to owner if the adjustment has been approved by HUD.

(2) The owner does not have any right to receive a special adjustment.